

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

29616

FILE: B-216760**DATE:** October 22, 1984**MATTER OF:** Terminal Data Corporation**DIGEST:**

A protest concerning an alleged solicitation impropriety that is not filed prior to bid opening is untimely.

Terminal Data Corporation protests the award of a contract to Consolidated Micrographics under invitation for bids No. DAAK21-84-B-M338, issued by the Department of the Army. We dismiss the protest as untimely.

The solicitation was for a high speed duplicator that uses anhydrous ammonia. Bid opening was set for May 7, 1984. The protester offered to supply a duplicator using an aqueous process for \$33,898, but the agency rejected the bid as nonresponsive and awarded a contract to Consolidated at a higher price. Terminal Data filed a protest here on October 10 contending that its lower bid should have been accepted since it is commonly known in the industry that the aqueous process provides the same print quality as anhydrous.

The protester's contention concerning the essential equivalence of anhydrous ammonia and aqueous duplicators is basically an argument that, in requiring one type of duplicator, the solicitation was unduly restrictive of competition. As such, the protest is one involving an alleged solicitation impropriety and, under our Bid Protest Procedures, should have been filed prior to bid opening. 4 C.F.R. § 21.2(b)(1) (1984). Since this protest was not filed until after bid opening, it is untimely and will not be considered. Richard A. Schwartz Associates, Inc., B-214979, June 29, 1984, 84-1 CPD ¶ 695.

Harry R. Van Cleve
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General Counsel

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